

# FAX TRANSMISSION

THE CITY OF CORAL GABLES  
OFFICE OF THE CITY ATTORNEY  
405 BILTMORE WAY  
CORAL GABLES, FLORIDA 33134  
(305) 460-5219  
Fax: (305) 460-5264  
Ehernandez@citybeautiful.net

To: Mercedes Selleck ..... Date: **APRIL 8, 2003**

Fax #: 305 476-7102

Pages: *Including this cover sheet.*

From: **ELIZABETH M. HERNANDEZ**  
CITY ATTORNEY

Subject: **1209 SUNSET DRIVE**

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## COMMENTS:

Attached please find the City's letter to Robert Ginsburg, the Dade County Attorney, with attachments concerning the above.

## ~~CONFIDENTIAL~~

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## THE CITY OF CORAL GABLES



The City Beautiful

OFFICE OF THE CITY ATTORNEY

CITY HALL 405 BILTMORE WAY  
CORAL GABLES, FLORIDA 33134

April 8, 2003

Robert Ginsburg, Esq.,  
County Attorney  
Miami-Dade County  
111 N.W. 1st Street  
Miami, FL 33128

Re. Community Council Hearing – April 8, 2003 – 7:00 P.M.  
Denise Catoira and Lorena Marmol – Applicants  
1209 Sunset Drive

Dear Mr. Ginsburg:

This evening, a zoning application will be heard on the property at 1209 Sunset Drive. The City Commission has directed Commissioner Wayne "Chip" Withers and this office to express the Commission's views on this particular application.

The subject property is surrounded by single family residences. Sunset Elementary School is located to the southeast and a church and school are located to the east as well as to the west of the subject property. The area was initially part of an annexation application known as the Coral Waterway Annexation. Following an objection and request to be removed by one of the property owners along S.W. 72<sup>nd</sup> Street, the County Commission excluded this and other property along Sunset Drive (See visual map at Exhibit A).

The City recently learned that the County is proceeding with rezoning in the area despite County administration's knowledge of an ongoing annexation process. In a meeting with Commissioner Withers, the property owners of 1209 Sunset Drive proffered a restrictive covenant (see Exhibit B) to run in favor of the City of Coral Gables with several conditions including:

- 1) reversion to original zoning classifications in the event the "school, as depicted in the site plan, is not built;
- 2) preservation/no removal of the oak trees and shrubbery;
- 3) limitation of student population to 44 with on site, interior pick up and drop off;

- 4) no exterior renovations to the building which could change the residential look and feel;
- 5) no extensive modifications to the interior of the building.


The City wishes to advise the County, as follows:

- 1) The City supports the efforts of its citizens which will be present as the Riviera Neighborhood Association, Inc.. Some of their concerns are partially attached as **Exhibit C** hereto.
- 2) In the event that the Community Council approves the application, the City, without waiving its rights to proceed, would ask that the conditions of the attached restrictive covenant be amended to include the City's concerns as outlined above to mitigate any potential impacts of the proposed development.

I am required to attend the City Canvassing Board meeting scheduled to commence at 7:00 P.M. this evening and will, therefore, be unable to attend the public hearing.

Please communicate the City's concerns to the Chairperson of the Community Council to be included in the record, to the Assistant County Attorney at the hearing and to professional staff.

Very truly yours,

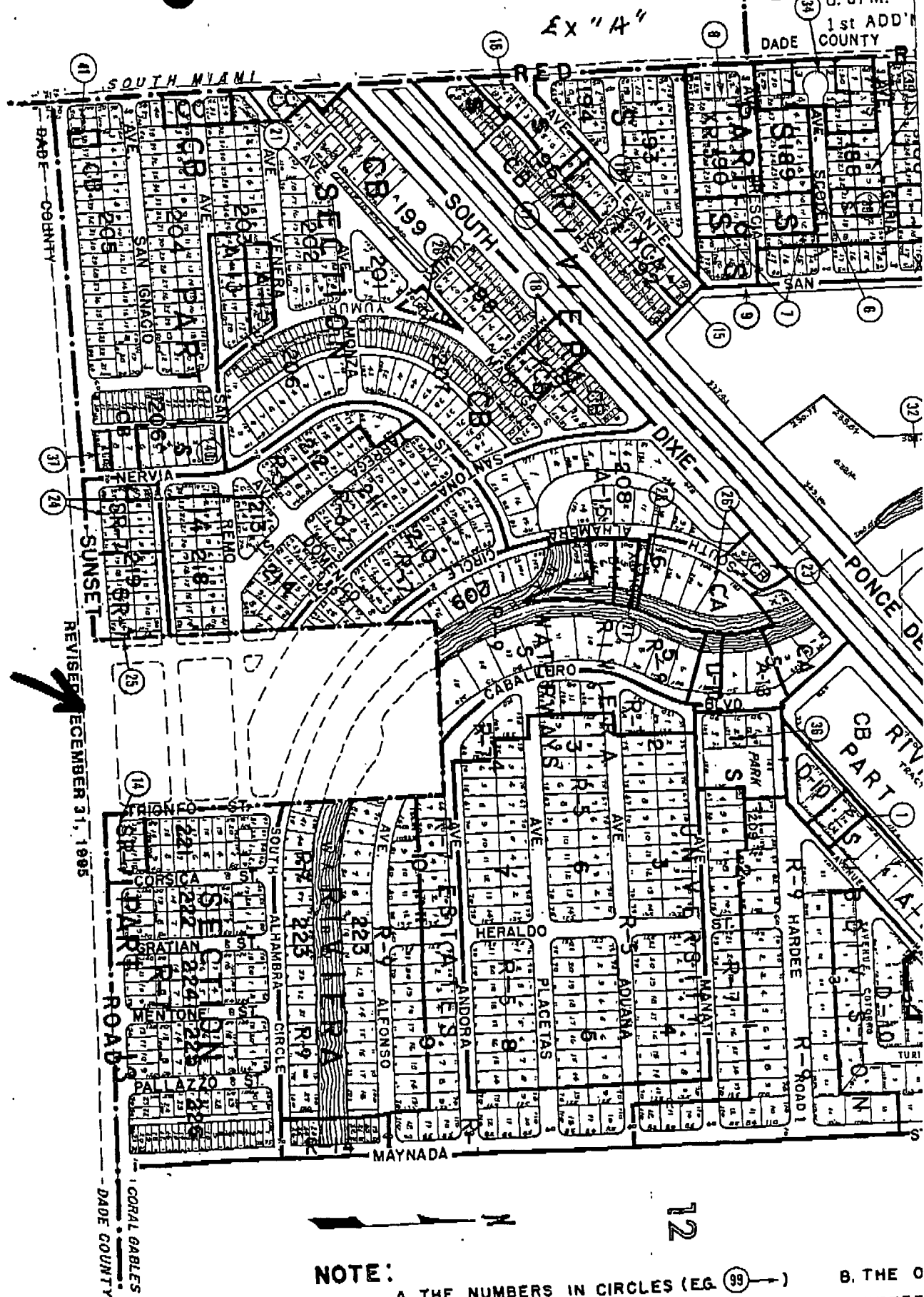
  
Elizabeth M. Hernandez  
City Attorney

EMH/stg

cc. Diane O'Quinn, Miami-Dade County  
Al Torres, Miami-Dade County  
Mercedes M. Selleck, Esq.

ATTENTION: The "S" and/or "X" Uses or other Qualifications listed herein have been summarized. PLEASE consult the captioned ordinances for conditions, restrictions or qualifications which may have been placed on such "S" and/or "X" Uses.

Rev 12-31-95



EX '8'

Declaration of Restrictions  
Page 1

This instrument was prepared by:

Name: Mercedes M. Sellek, Esq.  
Address: Rasco, Reininger, Perez & Esquenazi, P.L.  
283 Catalonia Avenue, Second Floor  
Coral Gables, Florida 33134

(Space reserved for Clerk)

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**DECLARATION OF RESTRICTIONS**

*WHEREAS*, the undersigned, Michael Logue and Charlotte Kassab (collectively the "Owner") hold the fee simple title to the land in Miami-Dade County, Florida, legally described in Exhibit "A," attached to this Declaration, and hereinafter called the "Property;"

*WHEREAS*, the Owners have filed an application with Miami-Dade County to rezone the Property from Estate Modified District (EU-M) to Four Unit Apartment (RU-3) District to accommodate the development of a private school on the Property;

*NOW THEREFORE, IN ORDER TO ASSURE* the County that the representations made by the owner during consideration of Public Hearing No. Z2002-328 (the "Application") will be abided by, the Owner freely, voluntarily and without duress makes the following Declaration of Restrictions covering and running with the Property:

1. Permitted Uses. Development of the Property shall be restricted to the following:

A. Private School. The Property shall be developed in substantial accordance with the plans entitled "*Montessori School*" as prepared by Richard C. Watson, consisting of three (3) pages and dated last revised February 20, 2003, said plans being on file with the Miami-Dade County Department of Planning & Zoning; and by reference made a part of this agreement;

Declaration of Restrictions  
Page 2

B. **Attendance and Number of Students.** At no time shall more than forty-four (44) students be permitted to attend the private school.

C. **School Hours.** School hours shall commence between 8:30 a.m. and 9:00 a.m.

D. **Residential Development.** If the Property ceases to be used as a private school, any residential project to be developed on the Property will be in accordance with the requirements of Miami-Dade County Code as follows:

**Sec. 33-225. Area, Frontage and Depth of Lots**

(a) [T]he minimum area of each site or lot shall not be less than fifteen (15,000) thousand square feet, having a minimum frontage of one hundred twenty (120) feet and a minimum depth of one hundred fifteen (115) feet; or

(b) Where lots in a subdivision have been platted or a lot has been deeded and recorded with a minimum frontage of less than one hundred twenty (120) feet, but having frontage of at least one hundred (100) feet and an area of at least fifteen (15,000) thousand square feet prior to July 18, 1957, the site shall be deemed conforming, if the property concerned was zoned LRU prior to July 18, 1957.

All as further set forth in the Estate Modified District (EU-M) of the Miami-Dade County Code.

2. **Miscellaneous.**

A. **County Inspection.** As further part of this Declaration, it is hereby understood and agreed that any official inspector of Miami-Dade County, or its agents duly authorized, may have the privilege at any time during normal working hours of entering and inspecting the use of the premises to determine whether or not the requirements of the building and zoning regulations and the conditions herein agreed to are being complied with.

B. **Covenant Running with the Land.** This Declaration on the part of the Owner shall constitute a covenant running with the land and may be recorded, at Owner's expense, in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be

3464501(4/8/03)

(Public Hearing)

Declaration of Restrictions  
Page 3

binding upon the undersigned Owner, and their heirs, successors and assigns until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the public welfare.

C. Term. This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is recorded after which time it shall be extended automatically for successive periods of ten (10) years each, unless an instrument signed by the, then, owner(s) of the Property has been recorded agreeing to change the covenant in whole, or in part, provided that the Declaration has first been modified or released by Miami-Dade County.

D. Modification, Amendment, Release. This Declaration of Restrictions may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the, then, owner(s) of all of the Property, including jointers of all mortgagees, if any, provided that the same is also approved by the Board of County Commissioners or Community Zoning Appeals Board of Miami-Dade County, Florida, whichever by law has jurisdiction over such matters, after public hearing.

Should this Declaration of Restrictions be so modified, amended or released, the Director of the Miami-Dade County Department of Planning and Zoning, or the executive officer of the successor of such Department, or in the absence of such director or executive officer by his assistant in charge of the office in his absence, shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.

Declaration of Restrictions  
Page 4

E. Enforcement. Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants. The prevailing party in any action or suit pertaining to or arising out of this declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of his attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

F. Authorization for Miami-Dade County to Withhold Permits and Inspections. In the event the terms of this Declaration are not being complied with, in addition to any other remedies available, the County is hereby authorized to withhold any further permits, and refuse to make any inspections or grant any approvals, until such time as this declaration is complied with.

G. Election of Remedies. All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

H. Presumption of Compliance. Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the County, and inspections made and approval of occupancy given by the County, then such construction, inspection and approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.



Declaration of Restrictions  
Page 5

I. Severability. Invalidation of any one of these covenants, by judgment of Court, shall not affect any of the other provisions which shall remain in full force and effect.

J. Recording. This Declaration shall be filed of record in the public records of Miami-Dade County, Florida at the cost to the Owner following the adoption by the Miami-Dade County Board of County Commissioners or Community Zoning Appeals Board of a resolution approving the application.

[Execution Pages Follow]

Declaration of Restrictions  
Page 6

IN WITNESS WHEREOF, we have hereunto set our hands and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

Witnesses:

Michael Logue

Sign: \_\_\_\_\_  
Print: \_\_\_\_\_

Sign: \_\_\_\_\_  
Print: \_\_\_\_\_

STATE OF FLORIDA            )  
                                  )SS  
COUNTY OF MIAMI-DADE    )

Sworn to and subscribed before me on the \_\_\_\_\_ day of March, 2003 by Michael Logue.  
Affiant is personally known to me or has produced a Florida Driver's license as identification.

\_\_\_\_\_  
Notary Public, State of Florida

My Commission Expires:

Declaration of Restrictions  
Page 7

IN WITNESS WHEREOF, we have hereunto set our hands and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

Witnesses:

Charlotte Kassab

Sign: \_\_\_\_\_  
Print: \_\_\_\_\_

\_\_\_\_\_

Sign: \_\_\_\_\_  
Print: \_\_\_\_\_

STATE OF FLORIDA                     )  
  )SS  
COUNTY OF MIAMI-DADE            )

Sworn to and subscribed before me on the \_\_\_\_\_ day of March, 2003 by Charlotte Kassab. Affiant is personally known to me or has produced a Florida Driver's license as identification.

\_\_\_\_\_  
Notary Public, State of Florida

My Commission Expires:

blage shall set back at least the minimum distance required, namely, fifty (50) feet from the front property line.

- (4) No building for public assemblage in EU-M, EU-1 and EU-2 Districts shall be closer than seventy-five (75) feet to any property line abutting a lot under ownership other than that on which the structure is to be placed.
- (5) No building for public assemblage which is more than two hundred (200) square feet in area shall have exterior walls or bearing partitions of less than one (1) hour fire resistance.
- (6) No building for public assemblage shall be more than one (1) story in height or more than fifteen (15) feet in height, unless constructed so as to offer at least three (3) hours' fire resistance, except that in AU, GU, RU and EU Districts a steeple, cupola, tower, dome or other ornamental vertical projection not occupied by persons may be higher than fifteen (15) feet, provided such vertical projection, where not of specified fire resistance, shall set back from every property line a distance at least equal to its overall height.
- (7) Ample parking facilities for buildings for public assemblage shall be provided off the highway right-of-way. Parking facilities for a church, school, or other buildings used for noncommercial purposes in a residential district may be permitted in the same district with said church, school or other buildings used for noncommercial purposes, provided no parking lot or special parking area is closer than twenty-five (25) feet to any property under different ownership which is zoned RU or EU unless the parking area is separated from such lot by a wall or hedge approved by the Director.
- (8) Philanthropic and eleemosynary institutions shall be classed as buildings for public assemblage, but if any building or its use is operated for profit, it shall be permitted only in districts where such business or industry is permitted.

(Ord. No. 57-19, § 5(M)(1), 10-22-57)

Cross reference—Wilful or malicious bombing or threats of bombings of public buildings, § 21-1 et seq.

### **Sec. 33-18. Same—Religious facilities and schools in certain districts.**

(a) Buildings used for public assemblage as defined in Section 33-1, where located in BU or IU Districts may be permitted with the same yard requirements and setbacks as required of the business or industrial buildings legally allowed in these districts; provided that no such building shall be placed closer than twenty-five (25) feet to a side or rear lot line or closer than fifty (50) feet to another building in the district unless separated by an unpierced wall constructed so as to offer at least three (3) hour fire resistance, in which case the setbacks prescribed for any other building in said district shall apply.

(b) With the exception of religious facilities no building for public assemblage shall be permitted in IU-2 and IU-3 Districts unless directly connected with legally established industrial use.

(c) Churches in RU-1, RU-2, EU-M, EU-1, EU-1C, EU-2, AU and GU Districts will be permitted only upon approval after public hearing; schools in AU, GU, EU-2, EU-1C, EU-1, EU-S, EU-M, RU-1, RU-2, RU-TH, RU-5, RU-5A, IU-1, IU-2, IU-3 and IU-C will be permitted only upon approval after public hearing.

(d) No church shall be constructed, operated or permitted upon any site that does not contain a minimum of two and one-half (2½) acres of land area, including street dedications, and having a minimum contiguous frontage of at least one hundred fifty (150) feet abutting on a public street right-of-way. Off-street parking facilities shall be provided and maintained within the land area of every church site in conformity with the requirements of Sections 33-122 through 33-132.\*

(e) Duly constituted "missions" may be permitted to operate upon sites containing less than the minimum land area hereinabove prescribed only upon approval after public hearing. For the purposes of this section "missions" shall mean any body, association, or organization for doing religious and charitable work, devoted entirely to the moral, religious and social improvement of those

\*Editor's note—Ord. No. 59-18, § 1, 6-23-59 referred to "Section 5BB of this ordinance," which section is codified as Sections 33-122 through 33-132 of this Code.

- (e) *Buffers.* Buffering elements shall be utilized for visual screening and substantial reduction of noise levels at all property lines where necessary.
- (f) *Landscape.* Landscape shall be preserved in its natural state insofar as is practicable by minimizing the removal of trees or the alteration of favorable characteristics of the site. Landscaping and trees shall be provided in accordance with Chapter 18A of this Code.
- (g) *Circulation.* Pedestrian and auto circulation shall be separated insofar as is practicable, and all circulation systems shall adequately serve the needs of the facility and be compatible and functional with circulation systems outside the facility.
- (h) *Noise.* Where noise from such sources as automobile traffic is a problem, effective measures shall be provided to reduce such noise to acceptable levels.
- (i) *Service areas.* Wherever service areas are provided they shall be screened and so located as not to interfere with the livability of the adjacent residential properties.
- (j) *Parking areas.* Parking areas shall be screened and so located as not to interfere with the livability of the adjacent residential properties.
- (k) *Operating time.* The operational hours of a nonpublic educational facility shall be such that the impact upon the immediate residential neighborhood is minimized.
- (l) *Industrial and commercial.* Where schools are permitted in industrial or commercial areas it shall be clearly demonstrated in graphic form how the impact of the commercial or industrial area has been minimized through design techniques.
- (m) *Fences and walls.* Recreation and/or play areas shall be enclosed with fences and/or walls.

(Ord. No. 77-59, § 1, 9-6-77; Ord. No. 86-27, § 2, 4-1-86; Ord. No. 95-223, § 1, 12-5-95)

#### **Sec. 33-151.20. Certificate of use and occupancy.**

The certificate of use and occupancy shall be automatically renewable annually by the Depart-

ment upon compliance with all terms and conditions including maintenance of the facility in accordance with the approved plan.

(Ord. No. 77-59, § 1, 9-6-77; Ord. No. 95-215, § 1, 12-5-95)

#### **Sec. 33-151.21. Grandfather clause.**

It is not the intention of this article to require any changes in any nonpublic educational facilities already in existence at the time of the adoption of this article, so long as said uses have been legally established in accordance with existing regulations.

Any nonpublic educational facilities which have heretofore been approved through a public hearing, and are subject to plot use (or site) plan approval, but on which construction has not been commenced, shall have six (6) months from the date of this article to commence construction; otherwise, compliance with this article shall be required.

With the exceptions noted above, all nonpublic educational facilities shall comply with the requirements of this article upon the effective date thereof.

Any proposed minor changes to existing schools that were approved prior to the adoption of this article may be approved by the Director, provided that such modifications do not violate the resolution approved as part of the plan. Such minor changes shall include, but not be limited to, enlargement of the play area, additions, such as storage areas, additional restrooms, and expansion of kitchen facilities.

(Ord. No. 77-59, § 1, 9-6-77; Ord. No. 95-215, § 1, 12-5-95)

#### **Sec. 33-151.22. Enforcement.**

In the unincorporated areas, this article shall be enforced by the Director and Team Metro.

- (a) In the incorporated areas, this article shall be enforced by the municipalities.

rounded off to the next highest whole number. When grade levels overlap, the more restrictive standard shall be used.

Minimum site size for day nurseries, preschool and after school care. The maximum number of children for day nurseries, preschool and after school care shall not exceed the following:

One (1) child for each three hundred (300) square feet of site area up to sites of seven thousand five hundred (7,500) square feet.

One (1) additional child per each six hundred (600) square feet for the portion of the site above seven thousand five hundred (7,500) square feet to fifteen thousand (15,000) square feet.

One (1) additional child per each nine hundred (900) square feet for the portion of the site above fifteen thousand (15,000) square feet.

Minimum site size for grades kindergarten (K) through the sixth grade. The maximum number of children for kindergarten through the sixth grade shall not exceed sixty (60) children per acre.

Minimum site size for grades seven (7) through twelve (12). The maximum number of students for seventh through twelfth grades shall not exceed the following:

From zero (0) acres to two (2) acres (inclusive):  
Forty-five (45) students per acre

From more than two (2) acres up to four (4) acres (inclusive): Fifty (50) students per acre

From more than four (4) acres up to six (6) acres (inclusive): Fifty-five (55) students per acre

From more than six (6) acres up to eight (8) acres (inclusive): Sixty (60) students per acre

From more than eight (8) acres up to ten (10) acres (inclusive): Sixty-five (65) students per acre

From more than ten (10) acres: Sixty-seven (67) students per acre

(b) *Outdoor areas.* Outdoor recreation/play areas shall be in accordance with the following minimum standards, calculated in terms of the

proposed maximum number of children for attendance at the school at any one (1) time unless otherwise indicated.

<i>School categories</i>	<i>Required area</i>
Day nursery/kindergarten and preschool and after-school care	45 square feet per child calculated in terms of half of the proposed maximum number of children for attendance at the school at one (1) time
Elementary school (grades 1—6)	500 square feet per student for the first 30 students; thereafter, 300 square feet per student
Junior and senior high school (grades 7—12)	800 square feet per student for the first 30 students; 300 square feet per student for the next 300 students; thereafter, 150 square feet per student

Where there are category combinations, each classification shall be calculated individually.

(c) *Signs.* Signs shall comply with district regulations as contained in Chapter 33 of the Dade County Code; provided, however, that the total square footage of all freestanding signs in any residential district shall not exceed six (6) square feet in size.

(d) *Auto stacking.* Stacking space, defined as that space in which pickup and delivery of children can take place, shall be provided for a minimum of two (2) automobiles for schools with twenty (20) to forty (40) children; schools with forty (40) to sixty (60) [children] shall provide four (4) spaces; thereafter there shall be provided a space sufficient to stack five (5) automobiles.

(e) *Parking requirements.* Parking requirements shall be as provided in the Dade County Zoning Code, Section 33-124(1).

(f) *Classroom size.* All spaces shall be calculated on the effective net area usable for instruction or general care of the group to be housed. This space shall not include kitchen areas, bathrooms, hallways, teachers' conference rooms, stor-

age areas, or any other interior space that is not used for instruction, play or other similar activities. The minimum classroom space shall be determined by multiplying the maximum proposed number of pupils for attendance at any one time by the minimum square footages, (1) through (4) below. Where a private educational facility is nongraded, calculations shall be based on the age level that corresponds to the grade level in the public school system. Where a school includes more than one of the following categories, each category shall be individually computed:

- (1) Day nursery and kindergarten, preschool and afterschool care, 35 square feet per pupil.
- (2) Elementary (grades 1—6), 30 square feet per pupil.
- (3) Junior high and senior high (grades 7—12), 25 square feet per pupil.
- (4) Baby-sitting service, 22 square feet of room area per child.

(g) *Height.* The structure height shall not exceed the height permitted for that site by the existing zoning.

(h) *Trees.* Landscaping and trees shall be provided in accordance with Chapter 18A of this Code.

(i) [*Exemptions.*] Baby-sitting services are exempted from the requirements of subsections (b), (d), (e) and (h), "Outdoor Areas," "Auto Stacking," "Parking" and "Trees," Section 33-151.18. Schools permitted within existing multifamily structures (subsection (d), Section 33-151.17) are exempted from subsections (d) and (e), Section 33-151.18, provided such schools are limited to the occupants of the subject multifamily structures.

(j) Child care facilities as described in Section 33-151.11(a), (b) and (f), shall be prohibited from operating on property abutting or containing a water body such as a pond, lake, canal, irrigation well, river, bay, or the ocean unless a safety barrier is provided which totally encloses or affords complete separation from such water hazards. Swimming pools and permanent wading pools in excess of eighteen (18) inches in depth shall be totally enclosed and separated from the

balance of the property so as to prevent unrestricted admittance. All such barriers shall be a minimum of forty-eight (48) inches in height and shall comply with the following standards:

- (1) Gates shall be of the spring back type so that they shall automatically be in a closed and fastened position at all times. Gates shall also be equipped with a safe lock and shall be locked when the area is without adult supervision.
- (2) All safety barriers shall be constructed in accordance with the standards established in Section 33-12, except that screen enclosures shall not constitute a safety barrier for these purposes.

(Ord. No. 77-59, § 1, 9-6-77; Ord. No. 86-27, §§ 1, 2, 4-1-86; Ord. No. 90-115, § 1, 10-16-90; Ord. No. 93-126, § 3, 11-16-93; Ord. No. 95-223, § 1, 12-5-95)

#### **Sec. 33-151.19. Review standards.**

The following review standards shall be utilized by the Department, and, where a hearing is required, by the public hearing body.

- (a) *Study guide.* The study entitled "Physical Standards for Proposed Private Educational Facilities in Unincorporated Dade County," date 1977, shall be used as a general guide in the review of proposed nonpublic educational facilities; provided, however, that in no case shall the educational philosophy of a school be considered in the evaluation of the application.
- (b) *Planning and neighborhood studies.* Planning and neighborhood studies accepted or approved by the Board of County Commissioners that include recommendations relevant to the facility site shall be used in the review process.
- (c) *Scale.* Scale of proposed nonpublic educational facilities shall be compatible with surrounding proposed or existing uses and shall be made compatible by the use of buffering elements.
- (d) *Compatibility.* The design of the nonpublic educational facilities shall be compatible with the design, kind and intensity of uses and scale of the surrounding area.

- (9) Open sided structures shall be permitted waterward of the top of slope but landward of the water's edge, subject to compliance with accessory building setback and lot coverage requirements of the zoning district in which the structure is located; provided, however, the rear setback requirement shall be zero (0) feet. In no event shall an open sided structure that is placed waterward of the top of slope exceed fifteen (15) feet in height nor shall it exceed two hundred twenty-five (225) square feet in area. Only one (1) such open sided structure shall be permitted for each principal building on the subject lot, parcel or tract. Open sided structures other than railings on docks and decks shall not be permitted, unless approved as a nonuse variance at a public hearing.
- (10) Steps and decks on pilings or on similar spatially separated upright supports shall be permitted waterward of the top of slope and landward of the water's edge.
- (11) Boat ramps shall be permitted providing no filling of the slope area occurs.
- (12) Filling waterward of the top of slope shall be prohibited.

Structures other than those listed above are prohibited from placement within the area waterward of the top of slope.

(Ord. No. 96-93, § 1, 6-18-96)

**Sec. 33-16.2. Existing accessory structures and landscaping on certain privately owned artificial lakes.**

The foregoing recitations are adopted and incorporated herein by reference.

Notwithstanding any other provision of this chapter to the contrary, any accessory structure or landscaping in those subdivisions located in Section 10, Township 52 South, Range 40 East shall be deemed to be in compliance with this chapter, provided that the accessory structure or landscaping meets all of the following requirements:

- (a) The accessory structure or landscaping is accessory to a lawful single-family resi-

dential use that abuts a privately owned artificial lake that is connected to another surface water body; and

- (b) The accessory structure or landscaping is located in part or in whole waterward of the top of slope; and
  - (c) The accessory structure or landscaping was complete prior to the effective date of this section; and
  - (d) A building permit for the accessory structure has been applied for on or before April 20, 2000, and once issued shall not be renewed more than twice.
- (Ord. No. 98-45, § 1, 4-21-98)

**Sec. 33-17. Buildings for public assemblage—In districts other than business or industrial.**

All building or other structures or any part thereof, intended for public assemblage, wherein provisions are made for twenty-five (25) or more persons to assemble in one (1) room or such structure as an auditorium, church, club, hospital, sanitarium, school, theater, night club, amusement park structure and similar structures, excluding hotels, motels and apartments shall be located or placed only in business or industrial districts, as herein provided, and shall comply with the following:

- (1) No building for public assemblage shall be located closer than twenty-five (25) feet to any property line which abuts on a public highway or alley, or closer than fifty (50) feet of any property line abutting a lot under different ownership than that on which the structure is to be placed, or closer than seventy-five (75) feet to an existing residential building.
- (2) A separate lot used to provide setback requirements shall not be occupied by another building, if it would reduce the clear space required.
- (3) In EU-1 and EU-2 Districts, where the setback from the front building line is greater than the minimum specified by this section, buildings for public assem-